

WASHINGTON STATE PRINCIPLES FOR PLANNING AND PROGRAMMING RULES

Washington State is responding to the June 9, 2006, joint FHWA/FTA Notice of Proposed Rulemaking, Docket Number FHWA 2005 – 22986, FHWA RIN 2125-AF09; FTA RIN 2132-AA82, for implementing the planning and programming statutes in SAFETEA-LU and earlier Acts. These are the main principles being promoted:

1. Keep Guidance as Guidance

The proposed regulations incorporate two existing guidance documents as appendices—one on linking planning and NEPA processes and the other on fiscal constraint. Including these documents as appendices would convert the status from guidance to regulation and leave FHWA, FTA, States, and MPOs vulnerable to litigation premised upon selective reading. Therefore, we recommend removing Appendix A and Appendix B, and all references to them, from the NPRM.

2. Avoid “NEPAizing” Planning

The regulations should maintain flexibility. The focus should be on developing corridor and sub-area studies that provide useful information for the project development NEPA process. As proposed the regulations may actually discourage this. A key concern is the requirement that planning studies “meet the requirements of NEPA” in order to be incorporated into the NEPA process. This requirement could be taken to mean that the only way to link planning and NEPA is to perform a NEPA analysis in the planning process. Congress did not intend such a requirement and we believe it is vital to clarify the final rules to ensure that good, sound planning can produce results that are acceptable for use in the NEPA process.

3. Maintain the Flexibility in SAFETEA-LU

Congress wrote SAFETEA-LU with flexibility to allow FHWA, FTA, States, and Metropolitan Planning Organizations to develop plans and implement transportation planning processes that best incorporate local and regional needs and values. Where the proposed rules are more restrictive than the statute we recommend returning to Congress’ intent so that the rule sets for broad outline for achieving sound planning and programming.

4. Maintain Consistency with the SAFETEA-LU

To the extent the NPRM proposes regulations inconsistent with the law, we recommend removing or revising the proposed rule to be consistent with statute.

We the undersigned Metropolitan Transportation Planning Organizations (MPOs) of Washington State and the Washington State Department of Transportation endorse these principles and urge the revision of the proposed rule to adhere to these principles.

Benton-Franklin Council of Governments


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Steve Harvey, Director
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